

## Edmonton Composite Assessment Review Board

**Citation: John Havrilchak, Ryan ULC v The City of Edmonton, 2014 ECARB 00219**

**Assessment Roll Number:** 3577004

**Municipal Address:** 10015 103 Avenue NW

**Assessment Year:** 2014

**Assessment Type:** Annual New

Between:

**John Havrilchak, Ryan ULC**

Complainant

and

**The City of Edmonton, Assessment and Taxation Branch**

Respondent

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### **POSTPONEMENT DECISION OF Robert Mowbrey, Presiding Officer**

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#### **Issue**

[1] Should a postponement of the 2014 Annual New Realty Assessment hearing scheduled for June 4, 2014 be granted as requested by the Complainant?

#### **Legislation**

[2] The *Matters Relating to Assessment Complaints Regulation*, AR 310/2009, reads:

15(1) Except in exceptional circumstances as determined by an assessment review board, an assessment review board may not grant a postponement or adjournment of a hearing.

(2) A request for a postponement or an adjournment must be in writing and contain reasons for the postponement or adjournment, as the case may be.

(3) Subject to the timelines specified in section 468 of the Act, if an assessment review board grants a postponement or adjournment of a hearing, the assessment review board must schedule the date, time and location for the hearing at the time the postponement or adjournment is granted.

#### **Position Of The Complainant**

[3] The Complainant is unavailable during the month of June. He states that his unavailability was included on his Complaint Form.

#### **Position Of The Respondent**

[4] The Respondent agrees to the postponement.

## **Decision**

[5] The Board grants the postponement request.

[6] The hearing is rescheduled to:

Date: **July 14, 2014**

Time: **9:00 AM**

Location: Edmonton Assessment Review Board Offices

Disclosure of Complainant's Evidence: **June 3, 2014**

Disclosure of Respondent's Evidence: **June 30, 2014**

Disclosure of Complainant's Rebuttal Evidence: **July 7, 2014**

[7] No new notice of the postponed hearing will be sent.

## **Reasons For The Decision**

[8] The Board finds that the Complainant's unavailability on the date of the scheduled hearing constitutes an exceptional circumstance under section 15 of *MRAC*.

[9] In *City of Edmonton v. Edmonton (Assessment Review Board)*, 2010 ABQB 634 Justice Germain provided guidance on the interpretation of section 15:

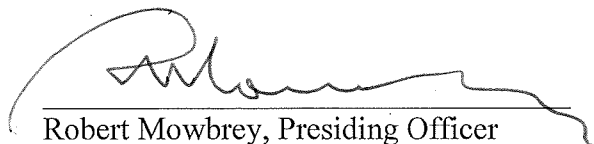
The *Regulation* must therefore be interpreted in such a way that the definition of exceptional circumstance cannot be so narrow and restrictive as to prevent hearings that are fair to both litigants (at para 43).

[10] Justice Germain also found that where the parties have consented to a postponement "such consent should be given some deference and not lightly ignored in the absence of compelling reasons" (at para 45).

[11] Given that the Respondent agrees to the Complainant's request, and in the interest of fairness to both parties, the Board finds that the exceptional circumstances required under section 15 of *MRAC* are met. The matter is rescheduled to July 14, 2014

Heard March 24, 2014.

Dated this 24<sup>th</sup> day of March, 2014, at the City of Edmonton, Alberta.



Robert Mowbrey, Presiding Officer

*This decision may be appealed to the Court of Queen's Bench on a question of law or jurisdiction, pursuant to Section 470(1) of the Municipal Government Act, RSA 2000, c M-26.*